

The United States is a great nation because for more than 200 years we have worked together to honor the religious convictions of freedom and celebrated the extraordinary religious diversity of our people. By unleashing the full strength of that freedom and diversity we can ensure that nothing will be able to divide us or defeat us.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DORNAN) is recognized for 5 minutes.

[Mr. DORNAN addressed the House. His remarks will appear in the Extensions of Remarks.]

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New York (Mr. OWENS) is recognized for 15 minutes as the designee of the minority leader.

[Mr. OWENS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

#### DAMAGING CHANGES PROPOSED TO U.S. PATENT LAW

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California (Mr. ROHRBACHER) is recognized for 30 minutes as the designee of the majority leader.

Mr. ROHRBACHER. Mr. Speaker, I am here tonight to discuss a bill that will be coming to this body next week or the week thereafter. A bill that will dramatically—dramatically—change the patent laws of this country.

Mr. Speaker, it is a bill that I believe is part of an insidious attack on the well-being of the American people. They will not even realize how horrible it is and the impact that it will have on their way of life until many years after. Only when it has long since been passed will the American people wonder what it was that hit them, why their standard of living is going down, why America is no longer able to compete.

Mr. Speaker, the American people are used to being the leaders on this planet. We have been, and this has been called the American Century. But let us never forget that America used to be the most underdeveloped country in the world. We were a desolate frontier, and now the American people have turned a desolate frontier into a house of freedom and opportunity in which the common man in the United States of America lives a decent life and knows that his children have an opportunity to improve their well-being as well through a system that encourages innovation.

Yet there are those who seek to change some of the fundamental underpinnings of American prosperity, and at times they are not always up front with their goals. Today, I believe

the incredible attack that we see coming on the patent system of the United States of America is part of this type of approach where people are seeking a change in America, but we are not certain exactly where they are coming from.

□ 2330

One thing is for certain. Bill Clinton, shortly after becoming President, sent Bruce Lehman, his appointee to head America's patent office, to Japan. There Bruce Lehman, now the head of the American Patent Office, concluded a hushed agreement to harmonize America's patent laws with those of Japan.

It may surprise those who are hearing this speech tonight that an unelected official—the head of our Patent Office, Bruce Lehman—signed an agreement and that an agreement has been reached. It is in writing: to harmonize American law, change our law so that it is in harmony with Japanese law in terms of the patent law.

What we got, by the way, for agreeing that our law would change and harmonize with Japan, is almost no change in the Japanese law in return, except for an anemic restriction on corporate Japan's interferences with the patent process. But like Japan's promise to open its markets decades ago—I remember this 25 years ago when they were talking about opening their markets—no one has any idea when their weak concessions will actually be put into effect or whether those weak concessions are simply scribbles on pieces of paper until they are forced, decades from now, to actually pull back from the things that they agreed to if we would change our law.

In the meantime, however, Bruce Lehman and the multinational corporations are doing their god-awful best to change our fundamental patent law, to harmonize it to make it look exactly like the law of Japan over these many years. They have tried to do this as quickly as possible and as quietly as possible.

Step No. 1 was eliminating the guaranteed patent term of 17 years which has been a right that Americans have enjoyed—American inventors and investors have had as a right—for 134 years. Before that, there was a guaranteed patent term of 14 years, from the time of the founding of our country until 134 years ago. This guaranteed patent term has been part of our rights and part of something that has actually been written into the Constitution. Trying to keep this downgrading of the American patent rights quiet—instead of coming to Congress with legislation changing our patent laws—a provision was snuck into the implementation legislation for the General Agreement on Trade and Tariffs [GATT]. That may sound odd, but Congress could only vote up or down on this one omnibus bill that came before us, the GATT implementation legislation. No amendments were allowed.

Thus, a Member of Congress would be forced to vote against the entire world trading system in order to vote against this insidious change of our patent law. This tactic was a total betrayal of those of us who voted for the fast track process of GATT, because we knew that we would only get an up or down vote. That is what the fast track was all about. But we were told if we would vote for fast track, then nothing would be included in the GATT implementation legislation except for that which was absolutely necessary and required by the GATT agreement itself.

That is not what happened because this change was not required by GATT. This insidious, absolutely underhanded way of passing this change in our patent law, should tip off our citizens and should have tipped off Members of Congress that there is something that has gone awry.

GATT did not require eliminating this patent change so it should never have been in the legislation implementing GATT.

I created a stir when GATT came to a vote. That was over 1½ years ago. I was promised a chance to correct this part of the implementing legislation. We can take it out of the implementing legislation. We can change the law and still be GATT consistent, because this was never required by GATT in the first place.

Changes in the patent term, of course, are not easy to understand. Most people do not understand the importance of them. They know it is important for America to be the No. 1 technological power in the world. But patent term: That is kind of confusing. That is exactly the area where America's enemies know they can strike and know they can get away with this type of effort—a blow to the well-being of the American people—because the American people will not realize what is happening.

Traditionally, when an American inventor or investor filed a patent, no matter how long it took that patent to be issued by the Patent Office, once it was issued, the owners had a guaranteed patent term of 17 years to reap the benefits of their new technology. They actually owned the technology for 17 years. Anyone who would use it would have to give them some sort of a fee for using it, a royalty, it is called. They created the technology. It would not exist without them. This was a wonderful way to promote innovation in our society. It was, again, their right to a guaranteed patent term that was the basis of our system. We had the strongest patent protection of any country in the world.

I will say it worked so well for the United States, almost all of the major inventions of our age and of the last century came from America, which was a very small and weak country at the time. The light bulb, the telephone, the reaper, the steamboat, of course, the airplane, all of these things came from Americans because we had a strong patent system.

During the time before the patent was issued, Americans knew, under the old system, that they were secure, that even though it would take a long time for them to get issued that patent, that they would have a full 17 years to benefit. So people knew they would invest in something and they would expect a reward. That is why we invented all those wonderful things that changed our lives and uplifted the standard of living of our people.

This system not only encouraged inventors but also investors. Private dollars by the billions have been allocated in our society for developing new technologies. We did not rely on government bureaucracy or taxes or government interference. We relied on freedom and the profit motive. It worked for the United States.

The new system, which is being foisted on us, is nothing more than the Japanese system superimposed on us. Again, it is very difficult to understand this and understand the significance of the changes, these changes in our system and what it will mean in changes in our lives.

Under the new code, meaning the old, the Japanese code superimposed on us, the day an inventor files for a patent, 20 years later his time is up. If it took 20 years, if it took 10 years for a patent to be issued in the past, the investor still knew he had 17 years because when it was issued, he had 17 years to reap the benefit. Under this new system, meaning the Japanese system, after 10 years one-half of the inventor's patent term is gone. It is eaten up. He or she only has 10 years left. The clock, in other words, is always ticking against the inventor and not the bureaucracy.

Anyone who has studied the process knows that it is not abnormal for breakthrough technologies, meaning technologies that will change our lives and change the world, innovations that will create tens of billions of dollars of new wealth, it is not odd for them to take 5, 10, or 15 years to go through the patent process. There are many, many examples of this. Yet these people under this system now, with their patent terms eaten away, would have no time to benefit from it. What kind of incentive does that give for investors who invest in people's breakthrough technology in their ideas?

Now, what else does it mean? What does it mean for the clock to be ticking against the inventor? It means the bureaucracy and special interests now have leverage on the inventor that they never had before. During negotiations which are part of the patent granting process, the inventor can be ground down because he or she is now vulnerable. And a patent can be delayed and the time shortened. And what does that mean? It means that all of those royalties, if now you only get 10 years of patent protection, really, that is left on your clock because it has taken that much time to get the patent issued and you only have 10 years left, what does that mean?

It means that royalties that were once going into the bank account of American inventors are now rerouted into the bank accounts of huge foreign and domestic and multinational corporations. These people who used to have to pay royalties the whole time now will end up having to pay royalties only part of the time, if any of the time, because there might not be enough time for the inventor to recoup the money necessary to fight in court the big corporations who are ripping off his product.

To claim stolen royalties, an individual American must pay lawyers then and legal specialists and go to court. Under the old system, the Americans were protected. Under the new system that is being installed, the Japanese system, Americans are at risk. The little guy gets ground down.

Under the old system, the Wright Brothers invented airplanes and lifted mankind into the heavens. Under this system, the Wright Brothers would have been ground down by Mitsubishi who would have probably ended up controlling their technology. And we would have gone to airports filled with Japanese airplanes reaping the benefits for that society.

This system, which our patent commissioner wants America to emulate, has ill-served the Japanese people because what has happened, although they have been able to grasp technology from others, there has been almost no innovation and creativity in Japan. The fact is, the Japanese are rightfully known as copiers and improvers, not innovators and inventors. This is because new inventions basically benefit a very small elite in Japan.

Their laws, which Bruce Lehman wants America to emulate, would have permitted and has permitted in Japan powerful business conglomerates to run roughshod over the people. They have been beaten down, when anyone raises his head. And those very same interests now will be able to come to the United States of America and run roughshod over our inventors.

As far as technological development, as I say, Japan basically has shown very little, very little, very little example of innovation in their own society because once an innovator does step forward, once an inventor does produce some sort of significant invention and tries to patent it in Japan, all of a sudden that inventor experiences pressures, official and unofficial, that are applied to beat him down. And so his rewards are limited.

However, the rewards of the big guys, the giant corporations, are very great there because they can envelope new innovation and pay very little in royalties as compared to their counterparts in the United States.

Unfortunately, we now are having that system superimposed on us. It is the difference between a society that is based on individual freedom versus collectivism and egalitarianism.

During the patent debate, Mr. Lehman constantly claimed the purpose of strong patent laws is to facilitate dissemination of information to the society as a whole. That is the ultimate in antifreedom collectivist thinking and has nothing to do with what our Founding Fathers had in mind. In our country the rights of the individual are paramount.

These patent laws were meant to protect individual property rights over those supposed needs of the society because we understood that protecting the rights, the property rights of the small farmer and the individual, the individual businessman, that this will indeed benefit all of us in the long run because individuals will then put out the maximum of effort. And they will have more personal responsibility, and it will create a prosperous citizenry.

This is what creates a prosperous country. Mr. Lehman's approach treats the individual as secondary, ants in a collective hole who, if they insist on their rights, must be smashed by the boots of those in power.

Of course, those trying to challenge our system will never admit this. Those trying to superimpose this Japanese system on us. The change is coming not as part of a democratic process, of course, so they do not have to tell us about it. It is coming by subterfuge, sneaking provisions into a treaty legislation or an omnibus bill so that basically this evil will be obscured from view.

When one can force the advocates into a debate, what they say is the reason why they are pushing all of these things is the fact that there is a submarine patent threat out there. Well, a submarine patent is someone who has tried to elongate the system here. They have gamed the system. Thus, the date for a patent being issued to them is put off and they have a few more years in the outyears to collect some royalties. That is what a submarine patent is.

□ 2145

Now, there have been some examples of that, and the fact is that that is a problem that can easily be corrected administratively, but this problem has been put up as a straw man to excuse this incredible fundamental change in our society and the diminishing of American patents rights.

Basically, they could have corrected the problem. It is like someone with a sore toe and someone telling them, "In order to get rid of your sore toe we are going to cut your leg off." "No, no, no. Please. I can correct the sore toe. I will put something on it that will make it better." "No, no. We are going to cut your leg off to get rid of your sore toe."

Now, when someone tells you that, maybe you have to question they do not have your best interests at heart, and that is what is happening with the submarine patent issue.

You see, the vast majority of all patent applicants, 95 percent and up if not

99 percent, do everything in their power to get their patent issued. You know, please issue it now, right away, because that is when they will start to benefit, when their patent is issued. They know that if they hold off, they may be left behind by other innovations, and let us note this:

Those people claiming that the submarine patent is, in fact, the reason why we have to change the patent law, do they not realize these are part of the very same forces that were trying to change the patent law before anyone ever talked about submarine patents, before anyone ever knew what that meant.

No, the fact is the real motive behind most of those people who want to change, the real motive is they want to harmonize our system with Japan because it will create a more global trading system.

Well, history will judge what happens by, you know, what they accomplish, by what they are trying to do and what happens to the American people.

Let us note that this is the first step in harmonizing our trade with Japan, and I will have to say that Mr. Lehman has used the bogeyman of submarine patents to get some Members of Congress to believe that that is a reason for this terrible change in our system that will have such a horrible impact on our society.

But again, if a submarine patent is a problem, we could work together and get it cured and get it corrected with just administrative changes within the system.

I, in fact, had a bill, H.R. 359, which would reinstate the 17 years of a guaranteed patent, but at the same time we included a provision that would basically stop the manipulation of the system. Yet when I put the provision in when it was suggested by others, that was not enough, and then again I said, well, let us put more things into this bill, let us put more things into this bill which will guarantee you cannot have a submarine patent just so long as you do not eliminate the guaranteed patent, just as long as you do not cut your leg off in order to cure the sore toe. But, no, no one was ever willing to offer that as an alternative. No one ever came up with suggestions for me with that, because the real purpose was to eliminate the guaranteed patent term.

Now, we face another piece of legislation. The fact is the guaranteed patent term was eliminated by the GATT implementation legislation. Well, I will be trying to restore that as a substitute for a bill which will come to the floor next week, H.R. 3460. It is a patent bill that is basically designed, their patent bill, H.R. 3460 which will come to the floor, and I have a substitute which I want to substitute for that bill, but their bill basically is designed to complete the destruction of our patent system, and basically it is the next step from what they did when they snuck this first provision into GATT

which will then totally harmonize us with Japan.

H.R. 3460, which I call the Steal American Technologies Act, is being put forward. Now, the official title is the Moorhead-Schroeder Patent Act. Well, better than anything else it demonstrates what is going on. It is very understandable to see what some of the provisions do, and it is very understandable to see the powerful international interests that are at work in this legislation.

H.R. 3460 is a package that obscures some of the mind-boggling provisions, but if you look closely you will be able to see it. One of the provisions was introduced last year in a bill entitled the Patent Publication Act. See, they had to change that now. They had to make it the Moorhead-Schroeder Act because the Patent Publication Act is too blatant a description. The title was too self-explanatory, in other words. That provision, which is part of this bill, H.R. 3460, mandates that after 18 months every American patent application, whether or not it has been issued, will be published for the world to see.

Please try to understand what I am telling you today. We have a bill that is insisting that every new idea of American technology will be made public, will be public, and thus every thief and brigand and pirate and multinational corporation and Asian copycat in the world will be handed the details of every idea that we have got. They will be standing in line. The Xerox machines will be running, the fax machines will be running, and our ideas will be overseas, and they will be in production of our new technology to use against us before our own people are issued the patents.

It is incredible, but of course that is part of the Japanese system, so we have to have it here too. That is part of the Japanese system. Everything is public, and thus they can beat down the individuals who are creating new technologies. Our newest and creative ideas, as I say, will be out before the public and out before our adversaries even before our own people can go into production, and H.R. 3460, as I say, is entitled to Moorhead-Schroeder Patent Act, and this provision, as I say again, it is almost too mind-boggling for the public to believe, but please believe it. That is part of the bill, that is the purpose of the bill, and basically this bill is passed, has already passed subcommittee and full committee.

When it was going through the subcommittee, I will never forget it. I was in my office, and there was a man from a medium-sized solar energy company from Ohio in my office, a president of his company. He had helped start that company and built it on his own creative ideas. They had lots of patents, and I told him what the provision of this bill was as it was going through subcommittee at the moment that I talked to him. I said, what if you have to publish your patent application before the patent is issued, and he said,

"My gosh, our Asian competitors will have it in production, they will be making profit on my technology. If I try to go to court, what they will do is they will use the money, the profit they receive from my technology, to beat me down and destroy my company."

He was right. That is what will happen if we let them get away with it, and this is something we cannot let happen.

Now, when full committee, which this bill has already passed through full committee, when someone was asked, when an advocate of this bill was asked, is that true? Everyone will have to publish their patent application? They were told, "Oh, no." That has been taken care of. Yeah, do you know how that has been taken care of? In order not to get it published, a patent applicant has to withdraw his patent. That is all. You just have to withdraw your application, meaning you have to give up on getting a patent.

That was an untruth. That was an untruth. That was something that was wrong information that the people had in the full committee. They were told that it was taken care of, but that was not what they consider being taken care of, that unless you withdraw and do not push forward for a patent that your patent will be published.

□ 2355

This is the nightmare that will face every small-and medium-size company, that they will have their own technologies used against them by foreigners and they will be put out of business. Anyone who cannot afford a stable of expensive lawyers will be at the mercy of the worst thieves in the world, and the big guys are the ones, of course, our big companies have the contacts overseas. They can defend themselves. In fact, they would not mind stealing some of the technology from the little guys here themselves. It will be open season in our country on the little guy.

Of course, Mr. Speaker, we are told we have to do this to prevent this evil, the submarine patents. There are a few people who are elongating their patents by a few years, and that is very evil. Thus, we have to do all this other stuff and permit this other vulnerability for everybody in our country in order to solve that problem. We have to cut your leg off in order to correct that hangnail that you have on your toe.

Another major provision of H.R. 3460 is now basically, hold onto your hats, is the abolition of the U.S. Patent Office. They are advocating we eliminate the U.S. Patent Office, which has been part of our Government since the founding of our country in 1790. Yes, under H.R. 3460, basically our Government will eliminate the patent office, which eliminates congressional oversight, by the way, because they are going to set up a new patent corporation, sort of a quasi-independent government corporation like the Post Office.

Members know I am in favor of privatization. I am a conservative Republican. But this corporatization of a Government function, of a core Government function, it is the Government's job to protect our individual rights. It has been part of our system since the founding of our country. This is not the way to privatize Government. We cannot do that, because that is the job of the Government.

Mr. Speaker, basically the patent examiners, and by the way, by making it a quasi-corporate structure, congressional oversight is taken back, but what also happens is that the patent examiners, these men and women who have dedicated themselves to a fair adjudication of American applications for patents, these people work hard and they struggle, and it is a tough job, but it is a judicial function, because they are making decisions as to who owns billions of dollars of technology.

These people are going to be stripped, they will be stripped of their civil service protection. This opens up everything to corruption. It opens it up to outside influences. Why are we doing this? Why are we doing this? If the patent office is corporatized, Bruce Lehman, the minister of harmonization with our laws with Japan, he is going to head the patent office, and he will be a virtual dictator of that office compared to what now it is, when we basically have it being part of the Government rather than a semi-private operation.

These changes are destructive. They will work against the best interests of the United States. It is transparent, the corruption that will be created, and the special interests from all over the world who will be trying to interfere with a system, a system which has served us so well and kept America ahead of the pack, ensured that the United States of America had a middle class, people who had decent lives because we had technology that permitted us to outcompete our adversaries economically and defeat our military adversaries when our country was in trouble.

H.R. 3460, the Steal American Technologies Act, that is the Moorhead-Schroeder bill, patent act, it must be defeated. The Rohrabacher substitute, which I will offer on the floor, which restores American patent rights, must be passed. It is something we have to do to protect the well-being of our citizens.

Huge companies have been opposed to this proposal. It is up to the American people. The American people have to weigh in, or huge corporations, multinational corporations, will have their way. So far we have the support of small business, the little guys, every small inventors organization in the country, even American universities. But the big corporations of the United States of America have weighed in because they have a vision of a global market, and who cares about the rights of the American people or the standard

of living of the American people. It is this global marketplace which is more important.

Mr. Speaker, we can make democracy work here. We can defeat the big guys if the little guys get together and make sure that they are contacting their Representatives in Washington and demanding that a piece of legislation so detrimental to our country's well-being, the Steal American Technologies Act, is defeated, H.R. 3460, and that the substitute that I am proposing, the Rohrabacher substitute, is placed in its stead.

Now is the time for us as Americans to stand together and tell the elites of the world we will never see our rights diminished by any kind of global vision. We will make sure that our children have a better life, because we are all the children, and all of Americans will always be the children, of Ben Franklin and Thomas Jefferson. We will never give up the rights that they gave us as their legacy.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. EMERSON (at the request of Mr. ARMEY) for today until 3 p.m., on account of attending his daughter's graduation.

Mr. MARTINI (at the request of Mr. ARMEY) until 2 p.m. today, on account of attending his daughter's graduation.

Mr. BASS (at the request of Mr. ARMEY) until 2:30 p.m. today, on account of attending a funeral.

Mr. INGLIS of South Carolina (at the request of Mr. ARMEY) for today until 5 p.m., on account of traveling to Greelyville, SC, to join the President in standing against arson attacks on places of worship.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FALEOMAVAEGA) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.

Mr. VOLKMER, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mrs. COLLINS of Illinois, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

(The following Members (at the request of Mr. ROHRABACHER) to revise and extend their remarks and include extraneous material:)

Mr. MANZULLO, for 5 minutes each day, on June 18 and 19.

Mrs. KELLY, for 5 minutes each day, on June 13 and 19.

Mr. WAMP, for 5 minutes each day, on June 12 and 13.

Mr. GUTKNECHT, for 5 minutes, today.

Mr. METCALF, for 5 minutes, today.

Mrs. JOHNSON of Connecticut, for 5 minutes on June 13.

Mr. WELLER, for 5 minutes, today.

Ms. DUNN of Washington, for 5 minutes, today.

Mr. HILLEARY, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes, today.

Mr. DORNAN, for 5 minutes, today.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. FALEOMAVAEGA) and to include extraneous matter:)

Mr. DELLUMS.

Mr. HAMILTON.

Mr. GEJDENSON.

Mr. JACOBS.

Mr. RAHALL.

Ms. DELAURO.

Ms. NORTON.

Mr. TORRES.

Mr. VENTO.

Mr. LAFALCE.

Mr. REED.

Mr. PALLONE.

(The following Members (at the request of Mr. ROHRABACHER) and to include extraneous matter:)

Mr. KING.

Mr. BOEHLERT.

Mr. GRAHAM.

Mr. DELAY.

Mr. DAVIS.

Mr. ROHRABACHER.

Mr. SPENCE.

Mr. HOKE.

Mr. YOUNG of Florida.

Mrs. MORELLA.

Mr. NETHERCUTT.

Mr. BILIRAKIS.

Mr. CUNNINGHAM in two instances.

Mr. ALLARD.

Mr. YOUNG of Alaska.

(The following Members (at the request of Mr. ROHRABACHER) and to include extraneous matter:)

Mr. GORDON.

Mr. PARKER.

Mr. DORNAN.

Mr. THOMPSON.

Mr. FARR of California.

Mr. KNOLLENBERG.

Mr. GILMAN.

Mrs. FOWLER.

Mr. LATHAM.

Mr. FLAKE.

#### ADJOURNMENT

Mr. ROHRABACHER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 59 minutes p.m.), the House adjourned until tomorrow, Thursday, June 13, 1996, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from